

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 27541 of 2005

DATED: 14-3-2007

Between:

C.Srinivasulu

petitioner

And

The APSRTC
Rep by its Managing Director,
Musheerabad, Hyderabad & Ors

Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 27541 OF 2005

ORAL ORDER:

The petitioner is working as Driver with the respondents-APSRTC. While discharging his duties as driver, the second respondent herein directed him to attend periodical medical examination. Accordingly, the petitioner attended the periodical medical examination at APSRTC Hospital, Cuddapah. The Medical Officer, APSRTC Hospital, Cuddapah vide Medical Certificate No. 42403 dated 13-7-2005 declared the petitioner as medically unfit for the post of A-1 driver due to defective distance vision. From 14-7-2005, the petitioner is placed on forced leave. He has submitted representations on 5-10-2005 and 15-11-2005 to the third respondent to provide alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'). Since no action is taken on the said representations and the respondents are not permitting him to attend the duties, he filed the present writ petition.

Learned counsel for petitioner submitted that in terms of Section 47 of the Act, the respondents are under an obligation to provide alternative employment and placed reliance on judgment of this Court in N.Siva Kumar Vs. APSRTC, Musheerabad and others^[1].

A counter affidavit was filed on behalf of the respondents admitting that the petitioner was found medically unfit and placed under forced leave with effect from 14-7-2005. It is stated that there are no vacancies in the cadre of Shramik/cleaner to provide alternative employment and as per the latest scheme additional monetary benefit is being provided to the medically unfit drivers in lieu of alternative employment.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

Learned standing counsel for respondents corporation is not in a position to explain the details of the additional monetary benefits to be given in lieu of alternative employment, nor there are any details in the counter affidavit. Once an employee is declared medically unfit, it is the duty of the authorities of the respondents to provide alternative employment in terms of section 47 of the Act.

This Court in N.Siva Kumar's case considered similar issue and directed the authorities to consider the case of the employee in the light of the provisions of the Act for alternative employment. The relevant portion reads as under;

“Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order.”

In the above circumstances of the case, the second and third respondents are directed to reconsider the matter afresh and pass appropriate orders in terms of Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act') as expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order.

With the above direction, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Date:14-3-2007

tvk

-
-
-

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 27541 of 2005

DATED: 14-3-2007

[\[1\]](#) 2001 (3) ALD 166 (DB)